

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ASHTON SMITH,

Plaintiff,

Case No. 2:23-cv-11509
Hon. Brandy R. McMillion

v.

Mag. Judge David R. Grand

DONALD HAIDERER,
SUSAN MCCUALEY,
and JANE DOE,

Defendants.

/

**ORDER ADOPTING RECOMMENDED DISPOSITION OF REPORT AND
RECOMMENDATION (ECF NO. 52) AND DENYING DEFENDANT
SUSAN MCCUALEY'S MOTION TO DISMISS FOR FAILURE TO
APPEAR FOR DEPOSITION (ECF NO. 43)**

Pro se Plaintiff Ashton Smith, an inmate in the Michigan Department of Corrections, brings this action against defendants Donald Haiderer, Susan McCauley, and Jane Doe (collectively, “Defendants”), under 42 U.S.C. § 1983 and the Americans with Disabilities Act. ECF No. 1. Smith alleges that Defendants have neglected his serious visual impairment resulting in him becoming “legally blind.”

Id.

This matter was originally assigned to the Honorable Stephen J. Murphy but reassigned to the undersigned on April 2, 2024. On April 4, 2024, this Court referred all pretrial matters to Magistrate Judge David R. Grand. ECF No. 33. On May 24,

2024, Defendant Susan McCauley filed a Motion to Dismiss for Failure to Appear for Deposition. ECF No. 43. On July 19, 2024, in a Report and Recommendation (“R&R”), the Magistrate Judge recommended that the Court deny Defendant McCauley’s motion to dismiss, as Plaintiff had ultimately been deposed, and dismissal was not warranted. ECF No. 52. At the end of the R&R, the Magistrate Judge advised the parties that to seek review of his recommendation, they had to file specific objections with the Court within 14 days of service of the R&R. *Id.* at PageID.428-429.

As of the date of this order, August 19, 2024—30 days since the Magistrate Judge filed the R&R—neither party has filed objections to the R&R or contacted the Court to ask for more time to file objections. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also Ivey v. Wilson*, 832 F.2d 950, 957-58 (6th Cir. 1987) (explaining that a party’s failure to timely object to a report and recommendation allows a court to accept the recommendation “without expressing any views on the merits of the magistrate’s conclusions”). Similarly, failure to object to an R&R forfeits any further right to appeal. *See Berkshire v. Dahl*, 928 F.3d 520, 530 (6th Cir. 2019) (recognizing that a party forfeits their right to appeal by failing to timely file objections to an R&R).

Accordingly, because neither party objected to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommended disposition of Defendant's motion (ECF No. 52) is **ADOPTED**.

IT IS ORDERED that Defendant Susan McCauley's Motion to Dismiss for Failure to Appear for Deposition (ECF No. 43) is **DENIED**.

IT IS SO ORDERED.

Dated: August 19, 2024

s/Brandy R. McMillion
Hon. Brandy R. McMillion
United States District Judge